

February 11, 2021

Submitted via FOIA Online

Regional Freedom of Information Officer
U.S. EPA, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

**Re: Freedom of Information Act Request Concerning the Sprague Twin Rivers
Terminal 740 Washington Street, Quincy, MA**

To Whom It May Concern:

The Conservation Law Foundation (“CLF”) hereby requests the records described below pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.* As used herein, “Sprague” refers to Sprague Operating Resources LLC and “Terminal” refers to the Sprague Twin Rivers Technology Terminal at 740 Washington Street, Quincy, MA, FRS ID 110001956759.

CLF requests disclosure of all requested records including any and all nonexempt portions of records that are otherwise determined to be exempt from review under the FOIA pursuant to 5 U.S.C. §552(b). *Wightman v. Bureau of Alcohol, Tobacco & Firearms*, 755 F.2d 979, 983 (1st Cir. 1985).

Unless stated otherwise, the time period for each request is 2010 to the present.

Specifically, CLF requests the following:

1. All permits issued and/or transferred to Sprague for the Terminal, such as permits issued and/or transferred under the Clean Water Act (“CWA”), the Clean Air Act¹ (“CAA”), and the Resource Conservation and Recovery Act² (“RCRA”), including, but not limited to, NPDES Permit No. MA0028037.
2. All records concerning draft and final NPDES permits and permit modifications; public comments and responses to public comments; and related documents including internal EPA documents; associated with the Terminal that have been prepared, released for public comment, and/or issued since 2000.

¹ CAA Source ID MA0000002511901421

² RCRA Source ID No. MA5000004408

3. All documentation regarding compliance, or failure to comply, with any permits issued for the Terminal.
4. All other records related to the Terminal's compliance with, or violation of, state or federal environmental statutes and regulations.
5. All documents relating to emergency preparedness and pollution prevention at the Terminal, including but not limited to:
 - a. Stormwater Pollution Prevention Plans
 - b. Spill Prevention, Control and Countermeasures Plans; and
 - c. Facility Response Plans.
6. All records related to any inspections of the Terminal by any local, state, and/or federal agencies;
7. All records related to water quality monitoring on or around the Terminal, including but not limited to discharge monitoring reports (DMRs);
8. All records related to any spills of pollutants at the Terminal;
9. All records related to any history of flooding at the Terminal;
10. All records related to the construction, maintenance, or condition of the berms at the Terminal;
11. All records regarding the presence of contamination at the Terminal; and
12. All records related to air quality monitoring at the Terminal.

CLF believes that these records reside primarily with the EPA Region 1 Office of Ecosystem Protection in either the Water Quality Branch or the Surface Water Branch, although additional branches, such as the Office of Regional Counsel or Resource Conservation and Recovery Act Enforcement Program, may possess records responsive to this request. CLF looks forward to a response and determination from your office within twenty working days of receipt of this request consistent with 5 U.S.C. § 552(a)(6) and 40 C.F.R. § 2.104. If this request is denied in whole or in part, CLF is entitled to receive, at a minimum, (1) a detailed index/list of the records withheld, including the name of the record, the subject of the record, the author of the record, and the date of the record; and (2) EPA's basis for withholding the records. *Church of Scientology Int'l v. U.S. Dep't of Justice*, 30 F.3d 224, 228 (1st Cir. 1994); *Vaughn v. Rosen*, 484 F.2d 820, 823-28 (D.C. Cir. 1973), *cert. denied* 415 U.S. 977 (1974).

Additionally, because CLF works on behalf of the public interest and this FOIA request is made in furtherance of the public interest, CLF requests a waiver of any and all fees associated with the disclosure of records pursuant to this request. The FOIA and EPA's regulations provide that records will be furnished at reduced or no charge when disclosure "is in the public interest

because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. §552(a)(4)(A)(iii); 40 C.F.R. §2.107(l). CLF addresses in the following paragraphs the six factors that the FOIA officer will consider in determining whether CLF has met the first (disclosure is in the public interest) and second (not primarily for commercial interest of the requester) fee waiver requirements.

First fee waiver requirement:

i. The subject of the requested records must concern identifiable operations or activities of the Federal government, with a connection that is direct and clear, not remote. 40 C.F.R. §2.107(l)(2)(i)

CLF seeks the information referred to in this request in order to better understand the factual and policy issues concerning stormwater pollution in and around the Town River and Weymouth Fore River, on behalf of its approximately 4,000 members and the public. The requested records directly concern the operations and activities of USEPA in its role as the primary enforcer and administrator of the Clean Water Act in Massachusetts, in which role USEPA drafted the applicable NPDES permit(s) and maintains the records regarding permit applications and pollutant discharges from the Terminal.

ii. The disclosable portions of the requested records must be meaningfully informative about government operations or activities in order to be “likely to contribute” to an increased public understanding of those operations or activities. 40 C.F.R. §2.107(l)(2)(ii)

The records requested by CLF will provide CLF, its members, and the general public with an increased understanding of the NPDES permitting operations and activities of USEPA as they relate to permit applications and pollutant discharges from the Terminal into the Town River and Weymouth Fore River. Moreover, CLF specifically intends to publish EPA’s response and disseminate the responsive documents to CLF’s members and the general public.

iii. The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. 40 C.F.R. §2.107(l)(2)(iii)

The records are requested by CLF on behalf of its approximately 4,000 members and the general public, which constitute a reasonably broad audience of persons. **CLF specifically intends to publish EPA’s response and disseminate the responsive documents to CLF’s members and the general public.**

iv. The public’s understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure, must be enhanced by the disclosure to a significant extent. 40 C.F.R. §2.107(l)(2)(iii)

The public’s understanding of the factual and policy issues concerning stormwater pollution in and around the Town River and Weymouth Fore River will be enhanced to a

significant extent by disclosure of the requested records regarding permit applications and pollutant discharges from ExxonMobil's Everett Terminal into the Mystic and Island Rivers.

Second fee waiver requirement:

i. *The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure. 40 C.F.R. §2.107(l)(3)(i)*

CLF is a non-profit environmental organization with no commercial interests whatsoever.

ii. *The primary interest in disclosure: Whether any identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester." 40 C.F.R. §2.107(l)(3)(ii)*

As CLF is a non-profit public interest environmental organization with no commercial interests whatsoever, CLF's primary (and only) interest in the requested disclosure is non-commercial and entirely in the public interest.

Consistent with the fee waiver provisions of the FOIA statute and EPA regulations, CLF seeks the information referred to in this request in order to better understand the factual and policy issues concerning stormwater and pollution in and around the Town River and Weymouth Fore River and the operations and activities of the government to abate that pollution and protect those public waters, on behalf of CLF's members and the public. CLF has no commercial interest whatsoever that will be furthered by this disclosure. 40 C.F.R. §2.107(l)(2)-(3). Moreover, CLF intends to publish EPA's response and make the responsive documents available to CLF's members and the general public. Consequently, a fee waiver is appropriate under FOIA and EPA regulations.

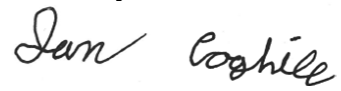
CLF appreciates that this request potentially may involve a large volume of administrative material and is willing to discuss ways to streamline the response.

Please provide the requested documents to:

Grace Li
Paralegal
Conservation Law Foundation
62 Summer Street
Boston, MA 02110
E: gli@clf.org

Please contact me if any further information is necessary at (617) 850-1739 or icoghill@clf.org. Thank you very much for your consideration and prompt response to this request.

Sincerely,

A handwritten signature in black ink that reads "Ian Coghill". The signature is written in a cursive, flowing style.

Ian D. Coghill
Staff Attorney